

Department of the Navy, DoD

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(7) A statement on whether arrests were made or charges preferred, and the result of any trial or hearing in civil or military courts.

(i) *Expert opinions.* In appropriate cases the opinion of an expert may be required to evaluate the extent of damage to a potential claimant's property. In such cases the investigating officer should consult Navy-employed experts, experts employed by other departments of the U.S. Government, or civilian experts to obtain a competent assessment of claimant's damages or otherwise to protect the Government's interest. Any cost involved with obtaining the opinion of an expert not employed by the Navy shall be borne by the command conducting the investigation. Any cost involved in obtaining the opinion of a Navy-employed expert shall be borne by the command to which the expert is attached. Medical experts shall be employed only after consultation with the Chief, Bureau of Medicine and Surgery.

(j) *Action by command initiating the investigation and subsequent reviewing authorities.* (1) The command initiating the investigation in accordance with § 750.3 or § 750.5 shall review the report of investigation. If additional investigation is required or omissions or other deficiencies are noted, the investigation should be promptly returned with an endorsement indicating that a supplemental investigative report will be submitted. If the original or supplemental report is in order, it shall be forwarded by endorsement, with any pertinent comments and recommendations. An advance copy of the investigation shall be forwarded to the Tort Claims Unit Norfolk.

(2) A reviewing authority may direct that additional investigation be conducted, if considered necessary. The initial investigation should not be returned for such additional investigation, but should be forwarded by an endorsement indicating that the supplemental material will be submitted. The report shall be endorsed and forwarded to the next-level authority with appropriate recommendations including an assessment of the responsibility for the incident and a recommendation as to the disposition of any claim that may subsequently be filed. If a reviewing authority may be an adjudicating au-

thority for a claim subsequently filed, one copy of the report shall be retained by such authority for at least 2 years after the incident.

(3) It is essential that each investigative report reflect that a good faith effort was made to comply with the Privacy Act of 1974 (5 U.S.C. 552a) as implemented by 32 CFR 701, subpart F. Any indication of noncompliance shall be explained either in the preliminary statement of the forwarding endorsements and, when required, corrected.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53418, Sept. 19, 2007]

§ 750.4 Claims: In general.

(a) *Claims against the United States.* Claims against the United States shall receive prompt and professional disposition. Every effort will be made to ensure an investigation is thoroughly and accurately completed, the claimant's allegations evaluated promptly, and where liability is established, a check issued as quickly as possible to prevent further harm to a meritorious claimant. Similarly, claims not payable will be processed promptly and the claimant advised of the reasons for the denial.

(b) *Claims in favor of the United States.* Potential claims in favor of the United States will be critically evaluated and, where appropriate, promptly asserted and aggressively pursued.

(c) *Assistance to claimants.* Claimants or potential claimants who inquire about their rights or the procedures to be followed in the resolution of their claims should be referred to the Tort Claims Unit Norfolk. The Tort Claims Unit Norfolk will provide claims forms, advise where the forms should be filed, and inform the requester of the type of substantiating information required. Claims officers may provide advice on the claims process but shall not provide advice or opinions about the merits or the wisdom of filing a particular claim. While claims officers have a responsibility to provide general information about claims, they must consider 18 U.S.C. 205, which makes it a crime for an officer or employee of the United States to act as an agent or an

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attorney in the prosecution of any claim against the United States.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53418, Sept. 19, 2007]

§ 750.5 Claims: Proper claimants.

(a) *Damage to property cases.* A claim for damage to, or destruction or loss of, property shall be presented by the owner of the property or a duly authorized agent or legal representative. "Owner" includes a bailee, lessee, or mortgagor, but does not include a mortgagee, conditional vendor, or other person having title for security purposes only.

(b) *Personal injury and death cases.* A claim for personal injury shall be presented by the person injured or a duly authorized agent or legal representative, or, in the case of death, by the properly appointed legal representative of the deceased's estate or survivor where authorized by State law.

(c) *Subrogation.* A subrogor and a subrogee may file claims jointly or separately. When separate claims are filed and each claim individually is within the Tort Claims Unit Norfolk's adjudicating authority limits, they may be processed by the Tort Claims Unit, even if the aggregate of such claims exceeds the Tort Claims Unit's monetary authority. However, if the aggregate of the claims exceeds the sum for which approval of the Department of Justice (DoJ) is required, currently \$200,000.00 under the Federal Tort Claims Act, then the Tort Claims Unit Norfolk must obtain DoJ approval via the Office of the Judge Advocate General, Claims and Tort Litigation Division, before the claims may be settled.

(d) *Limitation on transfers and assignment.* All transfers and assignments made of any claim upon the United States, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, are absolutely null and void unless they are made after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. 31 U.S.C. 203. This statutory provision does not apply to the assignment of a claim by operation of law, as in the case of a receiver or trustee in bankruptcy appointed for an individual, firm, or cor-

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poration, or the case of an administrator or executor of the estate of a person deceased, or an insurer subrogated to the rights of the insured.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53418, Sept. 19, 2007]

§ 750.6 Claims: Presentment.

(a) *Written demand and Standard Form 95.* A claim shall be submitted by presenting a written statement with the amount of the claim expressed in a sum certain, and, as far as possible, describing the detailed facts and circumstances surrounding the incident from which the claim arose. The Claim for Damage or Injury, Standard Form 95, shall be used whenever practical for claims under the Federal Tort and Military Claims Acts. Claims under the Personnel Claims Act shall be submitted on DD Form 1842.² The claim and all other papers requiring the signature of the claimant shall be signed by the claimant personally or by a duly authorized agent. If signed by an agent or legal representative, the claim shall indicate the title or capacity of the person signing and be accompanied by evidence of appointment. When more than one person has a claim arising from the same incident, each person shall file a claim separately.

(b) *To whom submitted.* Claims under the Federal Tort and Military Claims Acts should be submitted to the Tort Claims Unit Norfolk at the address provided in Sec. 750.3 above, or the Office of the Judge Advocate General, Claims and Tort Litigation Division, 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard, Washington, DC 20374-5066. Claims may also be submitted to the commanding officer of the Navy or Marine Corps activity involved if known, the commanding officer of any Navy or Marine activity, preferably the one nearest to where the accident occurred, or the local Naval Legal Service Command activity. The claim should be immediately forwarded to the Tort Claims Unit Norfolk.

[72 FR 53418, Sept. 19, 2007]

²The Claim for Damage or Injury, Standard Form 95 and the DD Form 1842 are available at the Web site of the United States Navy Judge Advocate General's Corps at <http://www.jag.navy.mil>.